

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Doug Spodak

DEFENDANTS

GoNow Technologies LLC, Niles Noblitt, Steve Lerner and Phil Cooper

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Kent (Delaware)

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

John A. Gallagher, Esquire, Gallagher Law Group, PC, 5 Great Valley Parkway, Ste. 210, Malvern, PA 19355

Attorneys (If Known)

N/A

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RS1 (405(g))
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1332

Brief description of cause:

Breach of Contract

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.DEMAND \$
75,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

APPENDIX I

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DOUG SPODAK

Plaintiff

CIVIL ACTION NO.

v.

GONOW TECHNOLOGIES LLC

and

NILES NOBLITT

and

STEVE LERNER

and

PHIL COOPER

Defendants

JURY TRIAL DEMANDED

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

Date
12/14/17

Attorney-at-law
John A. Gallagher, Esq.

Attorney for
Plaintiff

Telephone
610 647 5027

FAX Number
610 647 5024

E-Mail Address
jagallagher@tda.com



UNITED STATES DISTRICT COURT

APPENDIX F

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 1013 N. Providence Road, Newtown Square, PA 19073

Address of Defendant: c/o Incorporating Services, LTD, 3500 S. DuPont Way, Dover, DE, 19901

Place of Accident, Incident or Transaction: Eastern District of PA
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: N/A Judge

Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒

CIVIL: (Place one in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐

(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

XX (Please specify) **BREACH OF CONTRACT**

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, John A. Gallagher, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case **do not** exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: December 14, 2017

John A. Gallagher
Attorney-at-Law

61914

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: December 14, 2017

John A. Gallagher
Attorney-at-Law

61914

Attorney I.D.#

~~MSG~~ MSG

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

(1)

DOUG SPODAK

Plaintiff

v.

GONOW TECHNOLOGIES LLC

and

NILES NOBLITT

and

STEVE LERNER

and

PHIL COOPER

Defendants

CIVIL ACTION NO.

17 5715

FILED
DEC 18 2017
By KATE BARKMAN, Clerk
Dep. Clerk

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, Doug Spodak, by and through his undersigned counsel, the Gallagher Law Group, PC, files this Complaint against defendants, GoNow Technologies LLC, Niles Noblitt, Steve Lerner and Phil Cooper, and in support thereof avers as follows:

PARTIES

1. Plaintiff, Doug Spodak, is an adult individual, United States citizen and resident of the Commonwealth of Pennsylvania who currently resides at 125 Harvest Circle, Bala Cynwyd, PA 19004.

S

2. Plaintiff herein asserts a claim for breach of contract arising out of defendants' breach of their obligation to pay plaintiff severance and his counsel attorneys' fees pursuant to the parties' written and duly executed agreement.

3. Plaintiff's counsel, The Gallagher Law Group, PC ("GLG"), has assigned all of its rights to collect on its claim against defendants for attorneys' fees and costs to Mr. Spodak.

4. Defendant, GoNow Technologies LLC ("GoNow"), is an LLC duly organized and existing under the laws of the State of Delaware (incorporation date February 3, 2009).

5. GoNow has been non-operational for some time, and does not currently have a principal place of business (or any place of business).

6. The State of Delaware's Department of State, Division of Incorporations website states the following concerning GoNow: Registered Agent Information, Incorporating Services, LTD, 3500 S. DuPont Way, Dover, DE, 19901.

7. GoNow is an entity that has developed and maintains patentable technology.

8. Defendant, Niles Noblitt, is an adult individual, United States citizen and resident of the State of Florida who currently resides at 934 Flagship Drive, Summerland Key, FL 33042.

9. Defendant, Steve Lerner, is an adult individual, United States citizen and resident of the State of New Jersey who currently resides at 5 Krams Trail, Bound Brook, NJ 08805.

10. Defendant, Phil Cooper, is an adult individual, United States citizen and resident of the Commonwealth of Massachusetts who currently resides at 7 Fieldstone Drive, Winchester, MA 01800.

11. The individual defendants have at a material times comprised the Board of Directors of GoNow and will collectively be referred to herein as "the Board."

JURISDICTION AND VENUE

12. The amount in controversy in this matter does not exceed the arbitration limits of this Court.

13. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §1332, insofar as there is complete diversity between the parties and the amount in controversy, including damages, fees and costs, exceeds \$75,000.

14. Venue is proper in the Eastern District of Pennsylvania pursuant to 28 U.S.C. §1391(a)(2), as defendant resides and operates within this District.

15. Venue is proper in the Eastern District of Pennsylvania pursuant to 28 U.S.C. §1391(b), as a substantial part of the events giving rise to the claims occurred in the Eastern District of Pennsylvania.

16. Plaintiff herein demands damages of in excess of \$75,000 (inclusive of attorneys, fees, costs and interest), and for less than \$150,000.

A. Background. The Parties' Agreement

17. In October 2013, the parties entered into a document styled Separation of Employment and General Release ("Agreement"), the recitals and material terms of which, set forth below, establish the material facts necessary to understanding the dispute at hand, as follows:

THIS SEPARATION OF EMPLOYMENT AND GENERAL RELEASE (this "Agreement") is entered into as of November 14, 2013 by and between GoNow Technologies, LLC, along with its parents, subsidiaries, affiliates, successors, assigns, executives, Directors and agents (the "Employer") and Doug Spodak ("Executive").

WHEREAS, Executive has been employed by Employer as its Chief Executive Officer;

WHEREAS, Executive's employment with the Employer has ended effective as of October 23, 2013 (the "Separation Date"); and

WHEREAS, Executive and Employer mutually desire to amicably resolve the ending of Executive's employment with Employer and the other matters contained herein.

NOW, THEREFORE, in consideration of the mutual promises set forth in this Agreement and of other good and valuable consideration the sufficiency of which Executive acknowledges, and intending to be legally bound hereby, Executive and the Employer agree as follows:

1. Severance Benefits. In full consideration of Executive's execution and performance of this Separation of Employment Agreement and General Release, and his agreement to be legally bound by its terms, Employer agrees to:

a) pay Executive a one-time payment of \$10,500 for documented business expenses incurred by Executive on Employer's behalf within three business days after the receipt by the Employer of a minimum of \$100,000 in debt or equity financing ("Bridge Funding");

b) subject to the receipt of not less than \$300,000 (inclusive of the Bridge Financing) in debt or equity financing (the "First Funding") and satisfaction of the "Transition Completion" specified in Section 1(t) below, pay (i) Executive an amount equal to \$4,350 per month on or prior to the third business day of each month through August 2014 (the "Monthly Payments"), minus all payroll deductions required by law or authorized by him, and (ii) The Gallagher Law Group, PC., Executive's legal counsel, an amount equal to \$1,450 per month;

c) pay the first two Monthly Payments within three business days of attaining the Transition Completion;

d) if the Employer receives not less than \$800,000 (inclusive of the "First Funding") in total debt or equity financing, the remaining unpaid Monthly Payments shall be accelerated and paid within three business days after the receipt by the Employer of such financing;

f) within five business days upon the closing of the First Funding, Employee (i) meet with the Employer and its designated agents in a mutually acceptable place within the Philadelphia metropolitan area to transfer all Employer accounts, financial and otherwise (e.g. internet domain accounts, corporate registration accounts, etc.), and all corporate and financial records, including all receipts that underlying any Employer debt obligations (including credit card debt), and (ii) reach a mutually

agreed plan on how any necessary items from such meeting will be satisfied (the "Transition Completion");

14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania with regard to conflicts of laws rules

17. Legal Expenses. The parties agree that if either party shall prove a breach of this Agreement in a court of competent jurisdiction, then the prevailing party in such action shall be entitled to receive reimbursement of all reasonably incurred attorney's fees and costs.

B. Initial Funding Completed; Some Terms of Agreement Honored

18. At or around the time of the execution of the Agreement, or shortly thereafter, GoNow received a minimum of \$100,000 in debt or equity financing ("Bridge Funding").

19. At or around the time of the execution of the Agreement, or shortly thereafter, the defendants completed a payment to plaintiff of \$10,500.

20. At or around the time of the execution of the Agreement, or shortly thereafter, GoNow received a minimum of \$300,000 (inclusive of the Bridge Financing) in debt or equity financing (the "First Funding").

21. Mr. Spodak satisfied his obligations concerning "Transition Completion" set forth in ¶1(f) in a timely manner.

22. Defendants made an initial payment of \$4,350 to plaintiff in a timely fashion.

23. Defendants made an initial payment of \$1,450 to GLG in a timely fashion.

24. Defendants made a second payment of \$4,350 to plaintiff in a timely fashion.

25. Defendants made a second of \$1,450 to GLG in a timely fashion.

C. Defendants Breach. Ignore Demands for Satisfaction

26. After making the initial two (2) payments required pursuant to ¶1(b), defendants ceased making payments to Mr. Spodak and GLG.

27. In addition and/or alternatively, GoNow has since January 2014 received in excess of \$799,999.99 (inclusive of the "First Funding") in total debt or equity financing (or reasonable equivalent thereto).

28. Despite receiving such financing, defendants failed and refused to accelerate any, much less all of, the remaining payments then due and owing to plaintiff.

29. Plaintiff has made numerous written demands upon defendants for payment of the monies to which he is entitled, but defendants have failed to satisfy such demands either in whole or in part.

30. GoNow currently, and has at all material times hereto, been the owner of one or more patents that have substantial value (in excess of \$100,000).

31. Each member of the Board has at all times material hereto been the owner of liquid and other assets that have far exceeded the debt owed to plaintiff and GLG.

32. GoNow has on more than one occasion made a willful, intentional decision(s) to withhold payment of the monies owed to plaintiff and GLG despite being notified of its breach of the Agreement, and despite having actual knowledge of its breach of the Agreement.

33. The individual defendants, and the Board, have/has on more than one occasion made a willful, intentional decision(s) to withhold payment of the monies owed to plaintiff and GLG despite being notified of its breach of the Agreement, and despite having actual knowledge of its/their breach of the Agreement.

34. Plaintiff is entitled to attorneys' fees and costs pursuant to the terms of the Agreement.

COUNT I – PLAINTIFF V. ALL DEFENDANTS
Breach of Contract

35. Plaintiff hereby incorporates by reference all other paragraphs of his Complaint as though set forth at length herein.

36. Plaintiff honored all of his obligations and responsibilities under the Agreement.

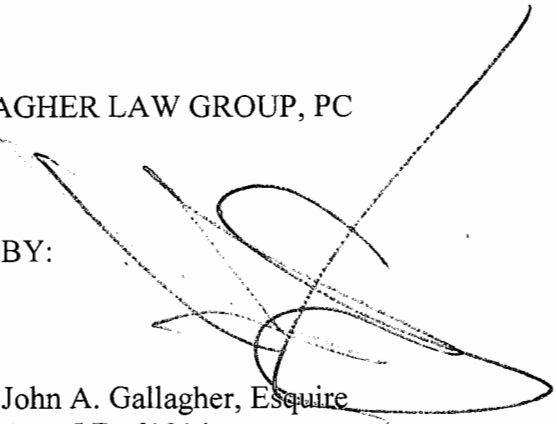
37. Defendants have breached their obligations to pay plaintiff severance and attorneys' fees pursuant to the Agreement.

38. Plaintiff is entitled to attorneys' fees and costs.

WHEREFORE, plaintiff, Doug Spodak, hereby demands judgment in his favor in an amount in excess of \$75,000 (and less than \$150,000) against defendants, GoNow Technologies LLC, Niles Noblitt, Steve Lerner and Phil Cooper, in a sufficient amount to fully compensate him for his losses, along with attorney's fees, costs and such other relief as the Court deems just and appropriate.

GALLAGHER LAW GROUP, PC

BY:



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